

Exhibit 1

**STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE**

**PETER J. BATTAGLIA, Jr. a/k/a
PETER J. BATTAGLIA and
PETER BATTAGLIA
82 Forestglen Cirle
Williamsville, New York 14221**

**BATTAGLIA DEMOLITION, INC.
82 Forestglen Cirle
Williamsville, New York 14221**

Plaintiffs,

SUMMONS

-vs-

Index No.

**OHIO SECURITY INSURANCE CORPORATION
175 Berkeley Street
Boston, Massachusetts 02116**

**LIBERTY MUTUAL INSURANCE
175 Berkeley Street
Boston, Massachusetts 02116**

Defendants.

To the above-named Defendants:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon the Plaintiff's attorney, at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service, you must respond within **TWENTY (20)** days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York, you must respond within **THIRTY (30)** days after service is completed, as provided by law.

If you do not respond to the attached Complaint within the applicable time limitation stated above, a Judgment will be entered against you, by default, for the relief demanded in the Complaint, without further notice to you.

This action is brought in the County of Erie because of Plaintiff's place of business, and by designation made by Plaintiffs.

DATED: Buffalo, New York
August 20, 2023

LOTEMPPIO P.C. LAW GROUP

By: 

Jack M. Sanchez, Esq.
Attorneys for Plaintiffs
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Buffalo, New York 14202
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**STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE**

**PETER J. BATTAGLIA, Jr. a/k/a
PETER J. BATTAGLIA and
PETER BATTAGLIA**

BATTAGLIA DEMOLITION, INC.

Plaintiffs,

COMPLAINT

-vs-

Index No.

**OHIO SECURITY INSURANCE COMPANY
LIBERTY MUTUAL INSURANCE**

Defendants.

Plaintiffs Peter J. Battaglia, Jr. a/k/a Peter J. Battaglia and Peter J. Battaglia ("Battaglia") and Battaglia Demolition, Inc. ("Battaglia Demolition") by its attorneys LoTempio P.C. Law Group, for its complaint alleges upon information and belief:

1. That at all times hereinafter mentioned, Battaglia was and continues to be a resident of the State of New York and resides 82 Forestglen Circle, Williamsville, New York 14221.
2. Battaglia Demolition is a domestic business corporation organized and existing pursuant to the laws of New York State.
3. Ohio Security Insurance Company ("OSIC") is a foreign corporation and is authorized to conduct insurance business and issue insurance policies for property and casualty in New York.
4. Liberty Mutual Insurance ("LMI") is a foreign corporation and is authorized to conduct insurance business and issue insurance policies for property and casualty in New York

5. OSIC and LMI provided insurance coverage to Battaglia and Battaglia Demolition for the premises located at 1037-1055 Seneca St. Buffalo, New York ("Premises) in connection with the claim out of which this action arises.

6. On or about August 21, 2021, there was a sudden and unexpected loss at the Premises as a result a fire.

7. This loss caused immediate and significant damage to the Premises, and resulted in the loss of a building, amongst other things.

INSURANCE

8. Plaintiffs repeats and realleges the allegations in paragraphs 1 through 7.

9. OSIC and LMI issued a commercial insurance policy to Battaglia and Battaglia Demolition, Policy No. BKS (22) 58776181, for the period from April 20, 2021 to April 20, 2022 (the "Policy").

10. Battaglia and Battaglia Demolition paid all premiums due and owing in connection with the Policy and complied with all Policy obligations and conditions.

11. Battaglia and Battaglia Demolition immediately notified OSIC and LMI of the loss and requested coverage for damage to the Premises (the "Claim").

12. Battaglia and Battaglia Demolition fully cooperated with OSIC's and LMI's investigation into the loss and claim.

13. OSIC and LMI have failed and refused to honor their obligation to provide coverage for the Claim, despite the fact that all claimed losses are covered by the Policy.

14. OSIC and LMI are obligated to provide coverage for said loss and Claim but have refused to reimburse Plaintiffs for damages to the Premises.

FIRST CAUSE OF ACTION

15. Plaintiffs repeats and realleges the allegations in paragraphs 1 through 14.
16. Battaglia and Battaglia Demolition have fully complied with all terms, conditions, duties, and obligations under the Policy.
17. The August 21, 2021 loss was a Covered Cause of Loss under the Policy.
18. OSIC and LMI are obligated to provide full coverage for the loss.
19. Battaglia and Battaglia Demolition provided OSIC and LMI with timely notice of its loss and Claim, paid all premiums owed under the Policy, and was otherwise in full compliance with all of its contractual obligations.
20. OSIC and LMI have wrongfully failed to pay amounts owed to Battaglia and Battaglia Demolition under the policy.
21. OSIC and LMI have breached its obligation to provide coverage and full payment for all covered damages (minus any applicable deductible) under the Policy, and have unilaterally breached its covenant of good faith and fair dealing implied in its Policy by deliberately, negligently, unlawfully, unreasonably, and wrongfully mishandling of Plaintiffs Claim and denying payment thereof.
22. OSIC and LMI have breached its obligations under the Policy and has caused Plaintiffs' to incur damages in an amount to be proven at trial.
22. OSIC's and LMI's denial of Plaintiffs' Claims constitutes a bad faith denial.
23. As a result of OSIC's and LMI's breach of its obligations under the Policy, Plaintiff is entitled to an award of compensatory, consequential, and punitive damages against OSIC and LMI in such amount as is established by the evidence, as well as pre-judgment interest, post-judgment interest, attorneys fees, and costs and disbursements of this action.

SECOND CAUSE OF ACTION

24. Plaintiffs repeat and realleges the allegations in paragraphs 1 through 23.
25. The Policy constitutes a valid and existing contracts of insurance requiring OSIC and LMI to properly compensate Plaintiffs for their losses.
26. Plaintiffs have complied with all applicable provisions of the Policy.
27. OSIC and LMI have breached the contract herein by denying Plaintiffs' claim and failing to pay Plaintiffs for their losses.
28. Plaintiff is entitled to actual damages as a result OSIC's and LMI's breach of contract.
29. Plaintiffs have been required to retain the services of attorneys to commence this action and are further entitled to attorneys' fees and costs and disbursements of this action.

THIRD CAUSE OF ACTION

30. Plaintiffs repeat and realleges the allegations in paragraphs 1 through 29.
31. OSIC and LMI have breached their contract with Plaintiffs by denying the Claim.
32. OSIC'S and LMI'S decision to deny the Claim lacks any basis in fact or law.
33. Plaintiffs have performed all of their obligations under the Policy.
34. Plaintiffs are entitled to a declaration that OSIC and LMI are obligated to provide insurance coverage for and to reimburse Plaintiffs for the entirety of their claimed loss and all resulting consequential damages arising from their breach.
35. By reason of the foregoing, an actual and justifiable controversy exists between Plaintiffs and OISC and LMI and is ripe for judicial review.

36. As a direct and proximate result of the practices and acts of OSIC and LMI as described in this Complaint, Plaintiffs have incurred losses and damages in an amount that exceeds the jurisdictional limits of this Court.

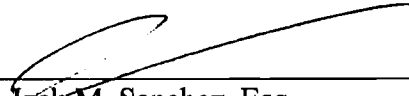
WHEREFORE, Plaintiffs are entitled to and demand judgment against OSIC and LMI for the following relief:

1. On its first cause of action, awarding a money judgment in an amount to be determined upon trial of this action, including punitive damages as well as pre-judgment interest, post-judgment interest, attorneys' fees, and costs and disbursements of this action.
2. On its second cause of action, awarding a money judgment in an amount to be determined upon trial of this action, including punitive damages as well as pre-judgment interest, post-judgment interest, attorneys' fees, and costs and disbursements of this action.
3. On its third cause of action, a declaration that OSIC and LMI are obligated to provide coverage for all damages incurred by Plaintiffs resulting from OSIC's and LMI's failure to abide its contractual obligations, including punitive damages as well as pre-judgment interest, post-judgment interest, attorneys' fees, and costs and disbursements of this action.
4. For such other and further relief as the Court deems proper.

DATED: Buffalo, New York
August 20 2023

LOTEMPPIO P.C. LAW GROUP

By: _____


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Attorneys for Plaintiffs
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